



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,592	06/25/2003	Steven E. Tivey	52493.000313	1425
21967 7590 10/31/2007 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER MCCORMICK, GABRIELLE A	
			ART UNIT 3629	PAPER NUMBER
			MAIL DATE 10/31/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/602,592	Applicant(s) TIVEY ET AL.	
	Examiner Gabrielle McCormick	Art Unit 3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on June 25, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/26/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on June 25, 2003.
2. Claims 1-19 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on March 26, 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 6-8, 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack.com (pages documented from the Internet Archive on July 21, 2001 (<http://web.archive.org/web/20010801185659/leadtrack.com/faq.html>) and December 1, 2001 (<http://web.archive.org/web/20011205051744/www.leadtrack.com/features.html>) and <http://web.archive.org/web/20011224094912/www.leadtrack.com/screen-customer.html>) hereinafter referred to as "Leadtrack") in view of Lamburt et al. (US. Pat. No. 6,374,241 hereinafter referred to as "Lambert").

Art Unit: 3629

6. **Claims 1 and 16:** Leadtrack discloses a *processor, network and memory* (pg. 1; para. 3: process or and memory are inherent in the "desktop PC")
 - *inputting new sales lead information representing a new sales lead from an agent using an agent computer interface;* (pg. 5: "data that is entered via keyboard")
 - *transmitting the new sales lead information to a lead processing portion, the lead processing portion having a leads memory portion, the leads memory portion storing existing sales lead information relating to existing sales leads;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records..." It is inherent that existing information in stored in order to perform the disclosed "duplicate checking")
 - *comparing the new sales lead information with the existing sales lead information;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records...")
 - *determining if there is a match between the new sales lead information and any of the existing sales lead information;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records rather than creating a duplicate")
7. Leadtrack does not disclose *tagging the new sales lead information as a duplicate lead based on a determination that there is a match between the new sales lead information and any of the existing sales lead information.*
8. Lamburt, however, discloses a method for detecting duplicates in a category file in which "categories are tagged as duplicates" (col. 47; lines 27-28).
9. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tagging, as disclosed by Lamburt in the system disclosed by Leadtrack, for the motivation of providing an alert that duplicate data is contained in the file.
10. **Claim 2:** Leadtrack discloses the method of claim 1. Leadtrack does not disclose *forwarding the new sales lead information, which is tagged as a duplicate lead for further processing, the further processing including further comparing the new sales lead information with the existing sales lead information.*

Art Unit: 3629

11. Lamburt however, discloses "further comparisons and determinations of equivalent categories." (col. 47; lines 42-43).
12. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included further comparisons, as disclosed by Lamburt, in the system disclosed by Leadtrack, for the motivation of ascertaining all the categories in which a record contains duplicate data.
13. **Claims 6 and 7:** Leadtrack in view of Lamburt discloses the method of claim 1. Leadtrack does not disclose that the *determining if there is a match between the new sales lead information and any of the existing sales lead information is performed in parallel and prior to the sales agent working the new sales lead.*
14. However, it is obvious that the matching can be performed either prior to or in parallel to working the lead. For example, it is obvious that if a prospective homebuyer walks into a realtor's office and begins inquiring about homes in the area, the realtor would immediately begin working with the client and not wait for data entry and duplicate check processing. That would create ill will with the client. Conversely, there are other situations where a realtor would want to know prior to contacting a potential client whether the client had recently purchased a home and therefore it not interested in buying another at this point in time.
15. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included performing the duplicate checking either prior to or in parallel with an agent working the lead, for the motivation of maximizing efficient use of resources.
16. **Claim 8:** Leadtrack discloses *viewing* (pg. 2: first bullet: duplicate check results in new information appended to old record and pg. 3; "Customer Master File Screen" displays data records) and sales departments (pg. 3; "LEADtrack Plus" is used by sales departments).
17. **Claims 9, 10, 17 and 18:** Leadtrack in view of Lamburt discloses the method of claim 1. Leadtrack discloses *determining if there is a match between the new sales lead information and any of the existing sales lead information* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records rather than creating a duplicate"). Leadtrack

does not disclose *loading the new sales lead information into the leads memory portion in conjunction with assigning a new lead identifier number to the new sales lead based on the new sales lead information, and wherein each of the existing sales leads in the leads memory portion have previously been assigned a respective existing lead identifier number, upon the existing sales leads having been initially loaded into the leads memory portion; and comparing the new lead identifier number with each of the existing lead identifier numbers or the existing lead identifier numbers and the new lead identifier number is generated based on name and address information in the existing sales lead information and the new lead information, respectively.*

18. Lamburt, however, discloses, "Each particular business entry may have a unique identifier (col. 14; lines 64-65), "a separate table for each ID corresponding to a business and its business address" (col. 15; lines 1-2) and searching for matches based on phone numbers in an existing database. (col. 41; line 63- - col. 42; line 1).
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included searchable identifiers based on a name and address, as disclosed by Lamburt, in the system disclosed by Leadtrack, for the motivation of providing a numeric quantity or metric for determining whether two name entries match. (Lamburt; col. 43; lines 26-28).
20. **Claim 11:** Leadtrack discloses *the internet*. (pg. 3; "LEADtrack Remote").
21. **Claim 15:** Leadtrack discloses using its software to "create, modify or look-up leads" (pg. 3; para. 1). Therefore, it is inherent that the "on-line duplicate checking" (pg. 2; first bullet) also pertains to all leads and further allows a second agent to work a new lead (disclosed as "sales departments" and "lead tracking" on pg. 3; "LEADtrack Plus").
22. **Claims 3 and 12-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack.com (pages documented from the Internet Archive on July 21, 2001 (<http://web.archive.org/web/20010801185659/leadtrack.com/faq.html>) and December 1, 2001 (<http://web.archive.org/web/20011205051744/www.leadtrack.com/features.html> and <http://web.archive.org/web/20011224094912/www.leadtrack.com/screen-customer.html>))

- hereinafter referred to as "Leadtrack") in view of Lamburt et al. (US. Pat. No. 6,374,241, hereinafter referred to as "Lambert") in view of **Official Notice**.
23. **Claims 3, 12, 13 and 14:** These claims all relate to processing, reviewing and working together of sales department personal, such as managers and agents. Leadtrack discloses that the use of the Leadtrack system "is a sales lead automation system used by...sales departments...one can easily run reports ranging from an analysis of territory performance to media source impact studies." (pg. 3; "LEADtrack Plus"). Inherent in any sales department are agents and managers working together. Further, the Examiner takes **Official Notice** that data review and quality control of data are old and well known in the data processing arts. This is accomplished manually by auditors that perform calculations on data and review data integrity to ensure accuracy.
24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included manual data review in the system disclosed by Leadtrack, for the motivation of ensuring the leads are viable and worthy of devoting valuable resources to pursuing.
25. **Claims 4, 5 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Leadtrack.com (pages documented from the Internet Archive on July 21, 2001 (<http://web.archive.org/web/20010801185659/leadtrack.com/faq.html>) and December 1, 2001 (<http://web.archive.org/web/20011205051744/www.leadtrack.com/features.html>) and <http://web.archive.org/web/20011224094912/www.leadtrack.com/screen-customer.html>) hereinafter referred to as "Leadtrack") in view of Lamburt et al. (US. Pat. No. 6,374,241, hereinafter referred to as "Lambert") in view of Hollister (US Pub. No. 2003/0229504).
26. **Claims 4 and 5:** Leadtrack in view of Lamburt discloses the limitations of claim 1. Leadtrack does not disclose *categorizing the lead as agent lead distinguishing the lead as business generated by efforts of the sales agent weighed against involvement of the sales lead processing entity in procurement of the new sales lead or adjusting a commission of the sales agent based on the determination of whether to categorize the new lead as an agent generated lead.*

Art Unit: 3629

27. Hollister, however, discloses "If a broker generates the lead through his marketing activities, he/she frequently charges the agent a referral fee (like 25-30% of the commission)." (para. [0024]).
28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included categorizing the lead in order to determine commissions, as disclosed by Hollister, in the system disclosed by Leadtrack, for the motivation of providing fair compensation for expenses incurred by a broker to generate leads. (Hollister: para. [0024]: whoever pays to generate the lead "owns" the lead.)
29. **Claim 19:** Leadtrack discloses
- *inputting new sales lead information representing a new sales lead from an agent using an agent computer interface;* (pg. 5: "data that is entered via keyboard")
 - *transmitting the new sales lead information to a lead processing portion, the lead processing portion having a leads memory portion, the leads memory portion storing existing sales lead information relating to existing sales leads;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records..." It is inherent that existing information is stored in order to perform the disclosed "duplicate checking")
 - *comparing the new sales lead information with the existing sales lead information;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records...")
 - *determining if there is a match between the new sales lead information and any of the existing sales lead information;* (pg. 2; first "bullet": "on-line duplicate checking...append to previously entered records rather than creating a duplicate")
30. Leadtrack does not disclose *tagging the new sales lead information as a duplicate lead based on a determination that there is a match between the new sales lead information and any of the existing sales lead information.*
31. Lamburt, however, discloses a method for detecting duplicates in a category file in which "categories are tagged as duplicates" (col. 47; lines 27-28).

Art Unit: 3629

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tagging, as disclosed by Lamburt in the system disclosed by Leadtrack, for the motivation of providing an alert that duplicate data is contained in the file.
33. Leadtrack does not disclose *forwarding the new sales lead information, which is tagged as a duplicate lead for further processing, the further processing including further comparing the new sales lead information with the existing sales lead information.*
34. Lamburt however, discloses "further comparisons and determinations of equivalent categories." (col. 47; lines 42-43).
35. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included further comparisons, as disclosed by Lamburt, in the system disclosed by Leadtrack, for the motivation of ascertaining all the categories in which a record contains duplicate data.
36. Leadtrack does not disclose *categorizing the lead as agent lead distinguishing the lead as business generated by efforts of the sales agent weighed against involvement of the sales lead processing entity in procurement of the new sales lead or adjusting a commission of the sales agent based on the determination of whether to categorize the new lead as an agent generated lead.*
37. Hollister, however, discloses "If a broker generates the lead through his marketing activities, he/she frequently charges the agent a referral fee (like 25-30% of the commission)." (para. [0024]).
38. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included categorizing the lead in order to determine commissions, as disclosed by Hollister, in the system disclosed by Leadtrack, for the motivation of providing fair compensation for expenses incurred by a broker to generate leads. (Hollister: para. [0024]: whoever pays to generate the lead "owns" the lead.)

Art Unit: 3629

39. Leadtrack does not disclose that the *determining if there is a match between the new sales lead information and any of the existing sales lead information is performed in parallel to the sales agent working the new sales lead.*
40. However, it is obvious that the matching can be performed either prior to or in parallel to working the lead. For example, it is obvious that if a prospective homebuyer walks into a realtor's office and begins inquiring about homes in the area, the realtor would immediately begin working with the client and not wait for data entry and duplicate check processing. That would create ill will with the client. Conversely, there are other situations where a realtor would want to know prior to contacting a potential client whether the client had recently purchased a home and therefore it not interested in buying another at this point in time.
41. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included performing the duplicate checking either prior to or in parallel with an agent working the lead, for the motivation of maximizing efficient use of resources.

Provisional Double Patenting

42. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re*

Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

43. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.
44. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
45. Claims 1-19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 10/602593, claims 1-20 of Application No. 10/602594, claims 1-25 of Application No. 10/602707 and claims 1-29 of Application No. 10/602923. Although the conflicting claims are not identical, they are all supported by near duplicate disclosures. The differences between the five disclosures is minimal and as such, the subject matter claimed in the instant application is fully disclosed in the referenced copending applications and would be covered by any patent granted on either copending application since the referenced copending applications and the instant application are claiming the common subject matter of systems and methods for processing, validating, assigning, distributing and managing sales leads. Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.
46. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.


Art Unit: 3629

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Gabrielle McCormick
Patent Examiner
Art Unit 3629



JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600